
UTAH LABOR COMMISSION

KAYE MEIDINGER,

Petitioner,

vs.

**MOUNTAIN WEST GASTRO-
ENTEROLOGY and WORKERS
COMPENSATION FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 05-0365

Kaye Meidinger asks the Utah Labor Commission to review Administrative Law Judge Hann's denial of Ms. Meidinger's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Ms. Meidinger filed an application with the Commission on April 15, 2005, to obtain workers' compensation benefits for a back injury allegedly suffered on June 4, 2003, while working for Mountain West Gastroenterology. Judge Hann held an evidentiary hearing on Ms. Meidinger's claim and then denied the claim on September 6, 2005, on the grounds Ms. Meidinger's injury did not arise out of her employment. Specifically, Judge Hann concluded that Ms. Meidinger's work-related exertions were not the legal cause of her back injury.

Ms. Meidinger requests Commission review of Judge Hann's ruling on the issue of legal causation.

FINDINGS OF FACT

The Commission adopts Judge Hann's findings of fact. As material to the issue of legal causation now before the Commission, these facts may be summarized as follows.

Ms. Meidinger is a middle-aged woman of average height and weight. On June 4, 2003, while working for Mountain West, she lifted a full water bottle weighing 47 pounds, turned around, and then carried the bottle some distance to a nursing station. She then inverted the bottle and placed it into a water dispenser. At the time Ms. Meidinger first picked up the water bottle and turned around, she felt an unusual heat sensation on her right side, but that sensation quickly went away and she worked through her scheduled shift with no further problems. The next day, Ms.

Meidinger experienced some stiffness and pain, which worsened over the next several days. She eventually underwent disc surgery.

Prior to lifting the water bottle at Mountain West on June 4, 2003, Ms. Meidinger suffered from degenerative disc disease that contributed to the back problems and need for disc surgery that is the basis of her current claim for workers' compensation benefits.

DISCUSSION AND CONCLUSION OF LAW

The Utah Workers' Compensation Act provides benefits to workers injured by accident "arising out of and in the course of" employment. Utah Code Ann. §34A-2-401. To meet the requirement that the injury "arise out of" employment, an injured worker must establish that his or her work was **both** the legal and the medical cause of the injury in question. *Allen v. Industrial Commission*, 729 P.2d 15, 25 (Utah 1986). The issue in this case is whether the requirement of legal causation has been satisfied.

In *Allen*, *Ibid.*, the Utah Supreme Court explained the requirement of legal causation as follows:

Whether an injury arose out of or in the course of employment is difficult to determine where the employee brings to the workplace a personal element of risk such as a preexisting condition. Just because a person suffers a preexisting condition, he or she is not disqualified from obtaining compensation. Our cases make clear that "the aggravation or lighting up of a pre-existing disease by an industrial accident is compensable" (Citation omitted.) To meet the legal causation requirement, a claimant with a preexisting condition must show that the employment contributed something substantial to increase the risk he already faced in everyday life because of his condition. This additional element of risk in the workplace is usually supplied by an exertion greater than that undertaken in normal, everyday life.

In its subsequent decision in *Price River Coal Co. v. Industrial Commission*, 731 P.2d 1079, 1082 (Utah 1986), the Utah Supreme Court described the test for legal causation as follows:

Under *Allen*, an usual or ordinary exertion, so long as it is an activity connected with the employee's duties, will suffice to show legal cause. However, if the claimant suffers from a pre-existing condition, then he or she must show that the employment activity involved some unusual or extraordinary exertion over and above the "usual wear and tear and exertions of nonemployment life." The requirement of "unusual or extraordinary exertion" is designed to screen out those injuries that result from a personal condition which the worker brings to the job, rather than from exertions required of the employee in the workplace. (Citations omitted; emphasis added.)

Applying the foregoing principles to this case, Ms. Meidinger must satisfy the more stringent prong of the *Allen* test for legal causation because, prior to the events at work on June 4, 2003, she

already suffered from a preexisting medical condition that contributed to her back injury. Consequently, Ms. Meidinger must show that lifting and carrying the water bottle at Mountain West constituted an “exertion over and above the usual wear and tear and exertions of nonemployment life.” *Price River Coal Co.*, 731 P.2d at 1082

In considering this question, the Commission notes Ms. Meidinger’s argument that the foregoing standard of “unusual or extraordinary exertion” should be applied in the context of Ms. Meidinger’s personal characteristics. In other words, Ms. Meidinger argues that the Commission should judge whether Ms. Meidinger’s exertion in lifting and carrying the 47 pound water bottle was unusual or extraordinary for a person of her unique physical abilities and tolerances. However, Ms. Meidinger’s argument cannot be squared with the Utah Supreme Court’s description of the test for legal causation contained in *Allen*, 729 P.2d at 26:

We also accept [Professor] Larson’s suggestion that the comparison between the usual and unusual exertion be defined according to an objective standard. “Note that the comparison is not with *this* employee’s usual exertion in *his* employment but with the exertions of normal nonemployment life of this or any other person.” [Citations omitted.] **Thus the precipitating exertion must be compared with the usual wear and tear and exertions of nonemployment life, not the nonemployment life of the particular worker. [Emphasis added.]**

Since the Supreme Court’s decision in *Allen*, the Commission has applied legal causation to a wide variety of exertions. In most cases, it is fairly easy to judge whether an exertion is “unusual or extraordinary and therefore compensable, or “usual and ordinary” and therefore noncompensable. This case is not so easy--Ms. Meidinger’s exertion comes close to the dividing line. On one had, the subject water bottle’s weight was substantial. On the other hand, there were no additional factors such as repetition or an awkward stance that added additional exertion or stress to the task.

On balance, the Commission views Ms. Meidinger’s exertion in lifting and carrying a 47 pound water bottle as comparable to other carrying and lifting tasks that are typically faced in modern nonemployment life. The Commission therefore concludes that Ms. Meidinger has not established the unusual or extraordinary work-related exertion necessary to satisfy the more stringent prong of the *Allen* test for legal causation. Judge Hann therefore properly denied Ms. Meidinger’s claim as not arising out of her employment at Mountain West.

ORDER

The Commission affirms Judge Hann’s decision. It is so ordered.

Dated this 20th day of March, 2007.

Sherrie Hayashi
Utah Labor Commissioner